

<b>TO:</b> Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE          FILING OR DETERMINATION OF AN          ACTION REGARDING A PATENT OR          TRADEMARK</b>
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SOLICITOR

AUG 27 2007

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Southern District of Iowa on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 1-07-cv-00025	DATE FILED 6/1/2007	U.S. DISTRICT COURT Southern District of Iowa
PLAINTIFF E-Market, Inc.,		DEFENDANT Decision Commodities, LLC, Growmark, Inc., and Ramaanchar Technologies, Inc.,
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,200,572 B2	4/3/2007	E-Markets, Inc., a Delaware Corporation
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input checked="" type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <i>Major E. Kuhn</i>	(BY) DEPUTY CLERK <i>D. Brice</i>	DATE 8/24/2007
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

patented invention, and/or by contributing to the manufacture, use, sale, and/or offer for sale of methods and products embodying the patented invention.

14. Defendants' infringement of the '572 Patent has caused E-Markets monetary harm in an amount to be proved at trial. In addition, unless restrained, Defendants' continued infringement of the '572 Patent will cause E-Markets irreparable harm for which there is no adequate remedy at law.

15. E-Markets' products and processes embodying the patented invention have properly been marked with references to the '572 Patent.

16. Upon information and belief, Defendants have known of the '572 Patent since the date of issuance, but have continued to infringe the '572 Patent. In addition, the president of Decision Commodities, Kevin Kimle, was a founder of E-Markets, was fully aware of the methods and technology underlying the '572 Patent, and has known about the patent application resulting in the '572 Patent since it was filed in 2001. Defendants, therefore, have knowingly and willfully infringed the '572 Patent in complete disregard for E-Markets' rights.

**Prayer for Relief for First Claim**

WHEREFORE, E-Markets prays for (a) an order finding that Defendants have infringed the '572 Patent; (b) an accounting for and an award of damages, including lost profits, resulting from Defendants' infringement, and/or reasonable royalties for such infringement pursuant to 35 U.S.C. § 284; (c) a trebling of E-Markets' damages because of the knowing, willful, and wanton nature of Defendants' conduct; (d) an assessment of interest, both prejudgment and post judgment, on the damages awarded; (e) a finding of this case to be exceptional and an award of attorneys' fees incurred by E-Markets in this action pursuant to 35 U.S.C. § 285; (f) a

preliminary and permanent injunction against Defendants' continued infringement of the '572 Patent; (g) an order directing that all goods and products in the possession, custody, or control of Defendants that infringe the '572 Patent be delivered up and destroyed within 30 days of entry of judgment; (h) an award of E-Markets' costs in bringing and prosecuting this action; and (i) such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), E-Markets demands a jury trial on all issues triable by jury.

Dated June 1, 2007.

Respectfully submitted by,  
KUTAK ROCK, LLP

s/Kathryn E. Jones  
Marcia Washkuhn, Iowa #20009  
Kathryn E. Jones, Iowa #17224  
1650 Farnam Street  
Omaha, NE 68102-2186  
Tele: (402) 346-6000  
Fax: (402) 346-1148  
Email: [marcia.washkuhn@kutakrock.com](mailto:marcia.washkuhn@kutakrock.com)  
[kathryn.jones@kutakrock.com](mailto:kathryn.jones@kutakrock.com)

Neil L. Arney (*Pro Hac Vice App. to Be Filed*)  
1801 California Street, Suite 3100  
Denver, CO 80202  
Tele: (303) 297-2400  
Fax: (303) 292-7799  
Email: [neil.arney@kutakrock.com](mailto:neil.arney@kutakrock.com)

*Attorneys for Plaintiff E-Markets, Inc.*

**U.S. District Court**  
**United States District Court for the Southern District of Iowa (Western)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-00025-RP-CFB**  
**Internal Use Only**

E-Markets v. Decision Commodities et al  
Assigned to: Chief Judge Robert W. Pratt  
Referred to: Magistrate Judge Celeste F. Bremer  
Cause: 35:271 Patent Infringement

Date Filed: 06/01/2007  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**E-Markets, Inc.**

represented by **Kathryn E Jones**  
KUTAK ROCK LLP  
1650 FARNAM STREET  
OMAHA, NE 68102-2186  
402 346 6000  
Fax: 402 346 1148  
Email: kate.jones@kutakrock.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Neil L Arney**  
KUTAK ROCK LLP  
1801 CALIFORNIA  
SUITE 3100  
DENVER, CO 80202  
303 297 2400  
Fax: 303 292 7799  
Email: neil.arney@kutakrock.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Decision Commodities, LLC**  
*an Iowa limited liability company*

represented by **Mark Allen Schultheis**  
Nyemaster, Goode, Voigts, West, Hansell  
& O'Brien, PC  
700 Walnut Street  
Suite 1600  
Des Moines, IA 50309  
515 283 3100  
Fax: 283 8045  
Email: maschultheis@nyemaster.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Growmark, Inc.,**  
*a Delaware corporation*

represented by **William J. Miller**  
DORSEY & WHITNEY LLP  
801 GRAND AVENUE  
SUITE 3900  
DES MOINES, IA 50309  
515-283-1000  
Fax: 515-283-1060  
Email: [miller.william@dorsey.com](mailto:miller.william@dorsey.com)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Ramaanchar Technologies, Inc.**  
*an Iowa corporation*

represented by **Matthew J Krigbaum**  
Moyer & Bergman, PLC  
PO Box 1943  
2720 First Avenue NE  
Cedar Rapids, IA 52406-1943  
319 366 7331  
Fax: 366 3668  
Email: [mkrigbaum@moyerbergman.com](mailto:mkrigbaum@moyerbergman.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mark J Herzberger**  
Moyer & Bergman, PLC  
2720 First Avenue NE  
PO Box 1943  
Cedar Rapids, IA 52406-1943  
319 366 7331  
Fax: 366 3668  
Email: [mherzberger@moyerbergman.com](mailto:mherzberger@moyerbergman.com)  
**ATTORNEY TO BE NOTICED**

**Counter Claimant**

**Decision Commodities, LLC**  
*an Iowa limited liability company*

represented by **Mark Allen Schultheis**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Counter Defendant**

**E-Markets, Inc.**

represented by **Kathryn E Jones**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Neil L Arney**  
(See above for address)

*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Ramaanchar Technologies, Inc.**  
*an Iowa corporation*

represented by **Matthew J Krigbaum**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mark J Herzberger**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Counter Defendant**

**E-Markets, Inc.**

represented by **Kathryn E Jones**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Neil L Arney**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Growmark, Inc.,**  
*a Delaware corporation*

represented by **William J. Miller**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Counter Defendant**




**E-Markets, Inc.**

represented by **Kathryn E Jones**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Neil L Arney**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
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08/24/2007	<a href="#"><u>18</u></a>	REPORT REGARDING COPYRIGHT/PATENT/TRADEMARK mailed to registrar. Along with Complaint and Answers. (don, ) (Entered: 08/24/2007)
08/15/2007	<a href="#"><u>17</u></a>	ANSWER to Counterclaim by E-Markets, Inc..(Jones, Kathryn) (Entered: 08/15/2007)
08/09/2007	<a href="#"><u>16</u></a>	ANSWER to Complaint, COUNTERCLAIM against E-Markets, Inc. by Growmark, Inc..(Miller, William) (Entered: 08/09/2007)
08/08/2007	<a href="#"><u>15</u></a>	<i>Ramaanchar Technologies, Inc.</i> 's ANSWER to Complaint, COUNTERCLAIM against E-Markets, Inc. by Ramaanchar Technologies, Inc..(Herzberger, Mark) (Entered: 08/08/2007)
08/03/2007	<a href="#"><u>14</u></a>	ANSWER to Counterclaim by E-Markets, Inc..(Jones, Kathryn) (Entered: 08/03/2007)
07/31/2007	<a href="#"><u>13</u></a>	TEXT ORDER granting <a href="#"><u>11</u></a> Motion for Extension of Time to Answer. Growmark, Inc., answer due 8/9/2007. Signed by Judge Celeste F. Bremer on 7/31/2007. (mlr) (Entered: 07/31/2007)
07/26/2007	<a href="#"><u>12</u></a>	ANSWER to Complaint, COUNTERCLAIM against E-Markets, Inc. by Decision Commodities, LLC.(Schultheis, Mark) (Entered: 07/26/2007)
07/20/2007	<a href="#"><u>11</u></a>	MOTION for Extension of Time to File Answer Motions referred to Celeste F. Bremer. by Growmark, Inc.. (Attachments: # <a href="#"><u>1</u></a> Proposed Order)(Miller, William) (Entered: 07/20/2007)
07/12/2007	<a href="#"><u>9</u></a>	Set/Reset Deadlines: Rule 16 Notice of Dismissal set for 10/1/2007. (don, ) (Entered: 07/12/2007)
07/12/2007	<a href="#"><u>10</u></a>	SUMMONS Returned Executed by E-Markets, Inc.. Ramaanchar Technologies, Inc. served on 7/8/2007, answer due 7/30/2007. (Jones, Kathryn) (Entered: 07/12/2007)
07/12/2007	<a href="#"><u>9</u></a>	SUMMONS Returned Executed by E-Markets, Inc.. Decision Commodities, LLC served on 6/28/2007, answer due 7/18/2007. (Jones, Kathryn) (Entered: 07/12/2007)
07/12/2007	<a href="#"><u>8</u></a>	SUMMONS Returned Executed by E-Markets, Inc.. Growmark, Inc., served on 6/22/2007, answer due 7/12/2007. (Jones, Kathryn) (Entered: 07/12/2007)
06/14/2007	<a href="#"><u>7</u></a>	Corporate Disclosure/Statement of Interest by E-Markets, Inc. identifying none as Corporate Parent.. (Jones, Kathryn) (Entered: 06/14/2007)
06/08/2007	<a href="#"><u>6</u></a>	TEXT ORDER granting <a href="#"><u>5</u></a> Motion for Leave to Appear Pro Hac Vice. Attorney Neil Atney has been added to the docket on behalf of E-Markets, Inc. The \$75 pro hac fee has been paid. Signed by Marjorie Krahn, Clerk on 6/8/2007. (jm) (Entered: 06/08/2007)
06/06/2007	<a href="#"><u>5</u></a>	MOTION for Leave to Appear Pro Hac Vice Receipt Number: 453750 Fee paid in the amount of \$75.Motions referred to Celeste F. Bremer. by E-Markets, Inc.. (Attachments: # <a href="#"><u>1</u></a> Text of Proposed Order)(Jones, Kathryn) (Entered: 06/06/2007)
06/01/2007	<a href="#"><u>4</u></a>	Summons Issued as to Ramaanchar Technologies, Inc.. (Jones, Kathryn) (Entered: 06/01/2007)

06/01/2007	 <u>3</u>	Summons Issued as to Growmark, Inc.,. (Jones, Kathryn) (Entered: 06/01/2007)
06/01/2007	 <u>2</u>	Summons Issued as to Decision Commodities. (Jones, Kathryn) (Entered: 06/01/2007)
06/01/2007	 <u>1</u>	COMPLAINT against all defendants Filing fee paid in the amount of \$ 350., filed by E-Markets. Notice of Dismissal for lack of Service deadline set for 10/1/2007. (Attachments: # <u>1</u> Exhibit 1)(Jones, Kathryn) (Entered: 06/01/2007)



**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

E-MARKETS, INC., a Delaware corporation;	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
DECISION COMMODITIES, LLC, an Iowa	)	
limited liability company;	)	
GROWMARK, INC., a Delaware	)	
corporation; and	)	
RAMAANCHAR TECHNOLOGIES, INC.,	)	
an Iowa corporation;	)	
	)	
Defendants.	)	
	)	

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

COME NOW, plaintiff E-Markets, Inc. for its complaint against defendants Decision Commodities, LLC, Growmark, Inc. and Ramaanchar Technologies, Inc. and states as follows:

**THE PARTIES**

1. Plaintiff E-Markets, Inc. ("E-Markets") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 807 Mountain Ave., Suite 200, Berthoud, Colorado 80513.

2. Upon information and belief, defendant Decision Commodities, LLC ("Decision Commodities") is a limited liability company organized and existing under the laws of Iowa, with its principal place of business in Iowa. Upon further information and belief, Decision Commodities is in the business of selling products and offering services in interstate commerce,

including sales in the State of Iowa and this District. Kevin Kimle, the President of Decision Commodities, is a former founder and officer of E-Markets.

3. Upon information and belief, defendant Growmark, Inc. ("Growmark") is a corporation organized and existing under the laws of Delaware. Upon further information and belief, Growmark is in the business of selling products and offering services in interstate commerce, including sales in the State of Iowa and this District.

4. Upon information and belief, defendant Ramaanchar Technologies, Inc. ("Ramaanchar") is a corporation organized and existing under the laws of Iowa, with its principal place of business in Iowa. Upon further information and belief, Ramaanchar is in the business of selling products and offering services in interstate commerce, including sales in the State of Iowa and this District.

5. Upon information and belief, defendants Decision Commodities and Growmark formed a partnership in 2004 to deliver and develop grain risk management products and services, including the infringing software product, commonly referred to as "Norman." Upon further information and belief, Ramaanchar developed and maintained the Norman software product for Decision Commodities.

6. Decision Commodities, Growmark, and Ramaanchar are hereinafter collectively referred to as "Defendants."

#### **JURISDICTION AND VENUE**

7. The Court may exercise subject matter jurisdiction over the claims set forth in this complaint pursuant to 28 U.S.C. § 1338.

8. The Court may exercise personal jurisdiction over Defendants in this action on the grounds that, upon information and belief: (a) Defendants have committed acts of patent infringement in the State of Iowa and this District; and (b) Defendants do business in the State of Iowa and this District directly, through authorized distributors and dealers, and/or by offering and selling products over the Internet, including in Iowa and this District, through their websites [www.decisioncommodities.com](http://www.decisioncommodities.com), [www.growmark.com](http://www.growmark.com), and [www.ramaanchor.com](http://www.ramaanchor.com).

9. Service of process on Defendants in this action will be effected pursuant to Fed. R. Civ. P. 4(h).

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

**FIRST CLAIM FOR RELIEF**  
**(Patent Infringement)**

11. E-Markets incorporates by this reference the allegations contained in paragraphs 1 to 10 as though fully set forth herein.

12. On April 3, 2007, United States Letters Patent No. 7,200,572 was duly and legally issued to E-Markets as assignee for the invention "Method and Apparatus for Pricing a Commodity" (hereinafter "the '572 Patent"). (A true and correct copy of the '572 Patent is attached hereto as Exhibit 1.) E-Markets owns all rights and interests in the '572 Patent, including the right to exclude other from practicing the invention and the right to recover damages for any infringement of the Patent.

13. Defendants have infringed and continue to infringe the '572 Patent by making, using, selling, and/or offering for sale methods and products embodying the patented invention, inducing others to make, use, sell, and/or offer for sale methods or products embodying the